

Burlington Planning Commission

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Lee Buffinton
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Andy Montroll
Harris Roen
Jennifer Wallace-Brodeur
vacant, Youth Member*



Burlington Planning Commission Minutes Special Meeting Wednesday, June 29, 2016 - 6:00 P.M.

Present: Y Bradley, L Buffinton, E Lee, A Montroll

Absent: H Roen, J Wallace-Brodeur

Staff: D White, M Tuttle, E Tillotson

I. Agenda

No changes.

II. Annual Report

M Tuttle: Draft in the agenda; has a similar format to previous years with some additional information. Planning Commission members attended 81 meetings over the year. The report addresses the work of different committees, the Commission's work with the City Council, and enumerates the 10 ordinances sent to City Council this year. There is a scheduled presentation to the City Council on July 11.

D White: It is still possible to provide any additional information to staff to be included.

Y Bradley: Suggests that the Commission address this at the next meeting.

III. Proposed CDO Amendment- Downtown Mixed Use Core Overlay

D White: The agenda packet is an outline of the amendment with the Commission's comments from the last meeting added. Hope to solidify the Commission recommendations and comments to the City Council.

M Tuttle: The materials identify staff recommendations on how to address Commissioner's comments. For some, there seemed to be consensus, particularly around items like the urban design standards. These could go into a list of changes to make to the ordinance after the hearing. Other issues, such as height and massing, for which there is not consensus, can be in a letter to go to the City Council. The first item in the chart is the boundaries of the overlay and the question about whether or not to include the People's Bank and College Street garage sites.

L Buffinton: Hotel VT is concerned about the city parking garage, we should look at height there.

E Lee: Presented a communication from herself, Joan Shannon and Richard Deane, members of the Form Based Code (FBC) Committee, regarding ways to bring the proposed amendment in line with FBC recommendations. Doesn't feel that the FBC's recommendations are represented in the current proposal. However, the amendment should not specifically consider any one property's views.

Y Bradley: Communication is only from three FBC Committee members; would like other members to review.

E Lee: The authors of the letter were careful to ensure that there was no quorum; comments do not represent the FBC Committee.

M Tuttle: Perhaps E Lee can share the comments on each issue as it comes up in tonight's discussion.

J Shannon: Communication reflects the original decisions of the FBC committee. This area had been reserved for taller buildings, but it only included those buildings between Cherry and Bank- not site behind People's Bank. Burlington is not that comfortable with tall buildings.

E Lee: FBC committee is not finished with their work.

Y Bradley: This is a new district; it seems that these buildings should be part of the overlay. From an urban planning perspective, why limit to such a tight geographic area.

D White: There is no historical pattern of development being disrupted; sites are internal to several blocks. Area where higher and bigger buildings could go. Caution about how it affects the view down Bank Street.

L Buffinton: People's building is important to the view at the end of the street. Suggest boundary doesn't include People's or College Street Garage.

Y Bradley: Need to consider future planning. Not everything will be redeveloped, some buildings might be repurposed.

B Baker: On the fence; could include these sites, but condition them not to permit 14 stories.

E Lee: Stand by the FBC Committee decision. Was a lot of give and take.

Y Bradley: Compromise and change comes with a range of opinions.

B Baker: A Montroll and H Roen may help us come to consensus.

M Tuttle: Next item is by-right height and FAR. Chart captures comments submitted by A Montroll that the amendment should be explicit about requirements; however, notes A Montroll's suggestions about ROW and underground parking discussed in other meetings. Received a communication from the BTC team about these two issues.

L Buffinton: Don't agree with by-right height and massing. Read communication sent to Commission regarding conforming to planBTV; elimination of bonuses, particularly for inclusionary, senior housing; secondary schools as a permitted use; and surface parking lots built to the perimeter of buildings. Requests that inclusionary housing and the use change be included the chart of discussion items.

D White: Bonuses have been around for three or more decades, and haven't produced much other than some parking. The ordinance needs to be really clear with goals stated. FBC doesn't retain any bonuses for housing. Inclusionary Zoning Ordinance is presently subject to a study. One question is whether to include workforce housing, because we know including that level is more challenging.

M Tuttle: Commission discussed that standards need to be clear and measurable.

B Baker: How effective is the requirement? The Commission should not weigh in on this matter at this time.

L Buffinton: The market will dictate fancy condos; the Commission needs to be more prescriptive.

Y Bradley: Inclusionary zoning is seen as a penalty, which impacts market realities. It's extremely hard to provide family housing, and we need to find a way to provide all housing types.

D White: This is a complicated issue; don't know that we will be able to answer it as part of this amendment.

E Lee: Not comfortable saying 160 feet is right height or wrong height without tools to see it, like model.

M Tuttle: This item is not about the height, but whether height is permitted by-right or through bonuses.

L Buffinton: Strike "the Commission supports by-right" because we did not vote.

E Lee: Had a discussion about legal ways to open streets tied to height. FBC included administrative discretion for 10% height variation for changes in elevation of site. Height should be a hard line; 160 feet means height is 146 feet with 10% variation up to 160 feet.

M Tuttle: Commission agreed not ready to make recommendation on overall height, but will provide all comments to Council. These are summarized in chart.

L Buffinton: Recommend current height limits, project within current ordinance because of planBTV. Don't feel this is legally justified until we have public process. Should be cautious and not let this leapfrog to other sites.

E Lee: Don't agree. Think this area is appropriate to have higher height, just don't have tools yet to make a decision on what height is.

B Baker: Recommending height is our charge. We have to follow planBTV and Municipal Development Plan, and making changes to zoning bylaws are implementing items of the plan. Good to get City Attorney's input, though.

D White: planBTV speaks to infill, but ambiguous on whether height should change to facilitate infill. Can facilitate by going taller or not going taller. Statute defines what conformance is, and difficult to argue this is no in conformance. Without the plan specifying what the height should be, have to consider the plan as one concept.

The Commission unanimously approved a motion by B Baker, seconded by E Lee, to include all opinions of the Commissioners including those submitted at the meeting by E Lee and L Buffinton, regardless of agreement by the Commissioners, regarding the proposed height of the ordinance in a letter to Council.

[A Montroll arrived 7:06 pm.]

A Montroll: While FBC recommends 10% variation in height, this district is already much higher. Suggest no administrative relief.

E Lee: 160 feet should be hard line.

A Montroll: Need to define the way the top of a building is measured.

M Tuttle: Sounds like recommendation to strike. At the last discussion, height and setbacks along Church Street were acceptable and chart reflects this.

E Lee: There needs to be a larger discussion about Church Street.

L Buffinton: It seems as if this works, but there is no pressing need to do it now.

D White: This language came from the FBC committee.

A Montroll: Should consider it as part of the FBC review.

The Commission unanimously approved a motion by E Lee, seconded by L Buffinton, to recommend that Council not include the proposed change to the Church Street height and setbacks as part of the DMUC Overlay.

L Buffinton: FAR is very confusing, what is being recommended?

D White: Existing zoning allows max 8.5 FAR. Proposed is 9.5 FAR, with limits on how it can be arranged to create spaces that are more functional for upper levels of a building, typically windows in upper story housing units.

M Tuttle: Items 8, 9, & 10 include comments from J Wallace-Brodeur. She raised the point that a secondary entrance is not defined, but that none of the streets in the overlay should be considered secondary. Staff discussed removing references to secondary, making all requirements for all facades.

A Montroll: Statement about parking design in #12 is more correct.

L Buffinton: To be consistent with planBTV, parking should be underground or completely wrapped.

M Tuttle: Suggestion was made not to permit surface parking.

Y Bradley: Green roofs, underground parking all costs money. Some surface parking is good planning. Layering everything involves expense; someone has to pay for it. Need to be realistic.

L Buffinton: This seems like a false argument; stormwater problems and surface lots are polluting the lake.

A Montroll: On ground level, is it possible to have parking behind frontages? The core overlay area is not where we want open surface parking.

L Buffinton: Disagree about allowing it to come to the edge of the building.

D White: The mall team has provided some information as to cost. Question is, at what point does burying parking become cost prohibitive and how do we include that as a measure of evaluation in zoning?

L Buffinton: It's important to think outside of the box.

Y Bradley: Don't know if it is always feasible for it to be wrapped. Some areas where it is not realistic; there may be areas where office space is not wanted, such as where dumpsters and utilities have to happen.

A Montroll: Permitting needs to be dealt with at the DRB level. As planners we need to put in what we want to have happen.

M Tuttle: Chart summarizes location and how screened. Demonstration that underground placement is economically not feasible is difficult, but can be included in the comments. Demonstration of economic feasibility is difficult to demonstrate and it is tricky to incorporate in language.

A Montroll: Is there a way to build it into the ordinance instead of as a condition of a permit?

D White: How do we determine the appropriate economic standard? Would need to have some really clear standards for DRB. Have to be really specific, and don't know of any good examples.

B Baker: Could require a parking plan that demonstrates all other options have been explored.

E Lee: Are the master sign plans consistent with ordinance work on LED signs that the Commission did?

D White: We do allow changeable message signs, and defines sizes and placement of other signs.

E Lee: Is there a reason requirements now need to be changed?

D White: Comes from work on FBC.

L Buffinton: It is important to hold this site to highest standards for stormwater performance.

D White: Per the City Stormwater team, the current standard is capturing 50% of a 1-year storm for new development. Ordinance proposes 100%.

E Lee: Regarding green buildings, not married to LEED but it is measurable. Would change to require bonding until confirm that it is certified.

B Baker: Skeptical of tying standards to a particular program.

M Tuttle: Need to determine what are the measurable standards we will use for compliance.

E Lee: LEED ensures accountability and is a recognized standard by the community.

L Buffinton: Needs to say something about healthy buildings.

B Baker: Sometimes Act 250 contains an engineer's statement stating measurability.

Y Bradley: Support tying to a standard. Tying into a standard we don't understand doesn't seem wise. Maybe staff can provide language.

E Lee: Could be any standard, but at least needs to be LEED or higher, measurable, and accountability.

B Baker: Some of these items are in the VT Energy Code. I don't know anything about this program, not comfortable with recommending it.

A Montroll: Want a high standard, but don't know what the standards are.

E Lee: Can't be a made up standard that staff writes. Needs to be an outside standard.

D White: Communities typically tie to something like LEED or create their own standards. LEED is best thing that's objective and measurable. Challenging because certification comes down the road, which is why there was a suggestion for bonding.

C Bates: San Francisco uses three standards in their ordinances for green and healthy buildings.

Y Bradley: Refer to staff to research and give some options.

L Buffinton: Commission needs to provide comments in this chart on the issue of schools as a permitted use. No one has mentioned, where did it come from?

D White: If you have housing associated with a school use, does it make sense to provide some space for educational uses—classroom, lab, etc. Only way current ordinance allows for it is as a school.

L Buffinton: Is there a financial reason why this is proposed? For example, if there is an educational use associated, then the housing units are considered dorms and they don't have to pay taxes?

D White: Taxes are based on who owns the building, not tenants. Dorms are defined as units owned and or operated by a school for an academic term. The relationship to academic term is what differentiates dorms and apartments.

L Buffinton: Developer says building student housing, isn't that a dorm?

D White: That's just who they intend to lease to. When building housing, it needs to be functional to someone beyond that current lease.

L Buffinton: Could condo a chunk of the building, sell to a school who could build a downtown campus with its own housing. There is something about this that we're not hearing. If it was a good idea, it can stay under conditional use and it'll get approved. Why is this slipping through? Whole mall could be a college campus, which is not consistent with planBTV. Propose leave as a conditional use.

D White: Have these kinds of activities on Lakeside Ave in satellite locations.

A Montroll: Leave it as a conditional use.

Y Bradley: As a conditional use, gives flexibility. CCV was downtown and it was great.

D White: If it's a matter of scale, could we consider it as an accessory? Accessory is 25% or less of space.

L Buffinton: If it is to scale, the DRB will approve. Doesn't seem necessary to change.

A Montroll: What would a classroom be accessory to? The housing is just housing students live in. The mall has opened up some of the vacant space for some classes and meetings. Those are good uses, but don't see them as accessory—it's just a shopfront that's being rented for a temporary classroom, but not a full school.

B Baker: Sounds like the Commission agrees on conditional use.

B Dunkiel: No ill intent. Ambiguity in current ordinance and two different definitions for labs, want to be able to permit in a holistic process rather than have part of the project go through conditional use.

L Buffinton: Maybe we just more clearly define lab.

Y Bradley: Staff prepare thoughts for next meeting.

M Tuttle: Staff will work on refining the table. Next meeting is public hearing. Will present a list of items there is consensus on that might be able to change in the ordinance, and a list of comments to send to Council with the ordinance.

IV. Public Forum

Resident: Request that more thought be given to arrangement of the room to accommodate hearing disability. Don't want to interrupt the Commission's discussion.

Lea Terhune: Commission should focus on public presence and make meetings welcoming. Sign on food table is disgusting. NPA's always feed people. Welcoming the public, setting room up differently are great suggestions. Meetings are very educational and we leave here and educate more people. Are there rules about members being present in order to participate in discussion? A person who can't attend meetings should not participate and should not be voting.

Albert Petrarcha: This is the third meeting, and there are more issues with no resolution. This is about the morality of a project and it's losing in the court of public opinion. All in Weinberger's back pocket. This deal is rigged, momentum for it has been stopped in its tracks. Should think about how not to inflame city. Each week the chasm is getting wider between people and project.

Genese Grill: Don't have time. This ordinance is in contradiction to planBTV. Please say no until this can be approved responsibly. We have a petition asking people if they want this zoning change, or if they want planBTV. Gathered lots of signatures online and outside City Market.

J.J. Vanat: First time at one of these meetings. Huge fan of bikeable, smart development. However, fourteen stories not in planBTV. This has been super rushed and it doesn't sit good with me. Rethinking downtown haven't heard about parking and traffic. Been here four years, and feel that community and culture, sunsets and light are key to identity.

Michael Long: Working on a zoning amendment that shouldn't even be considered. It's ethically questionable—amendments are not for a specific proposal. FBC has not yet been adopted. Conflict of interest may exist with Mr. Bradley.

Caryn Long: No one uses computer labs. Would like to know about this paid committee of planning commissioners and councilors. Have only confirmed that it included Jane Knodell and Karen Paul. This is being rushed. Reads letter from friend lives on N. Prospect. Do not make decision in summer, not enough public participation. Whole project is ill-conceived. Seems like staff working for Devonwood.

Amey Radcliffe: FBC not adopted. Y Bradley has conflict of interest and missed a lot of meetings. Need clarification on what comments are going to Council. Broader question addresses L Buffinton's comments—are we going to pay attention to what people asked for at planBTV?

Carolyn Bates: What is going on is past imagination. Absolutely furious that summer is being ruined. Started in 2013 to communicate with Sinex about a project. Now it's massive and rushed. Mayor has not given enough time and proper tools to vet. There is no feasibility plan. What do you know about Sinex? Stop this until you have proper tools. Read planBTV and be enlightened on what it says. Have spent hours researching this.

Eric Morrow: We are all members of same community with different roles in this process. Impressed with high level of conversation, discussion about details and substance. Should not be personal.

Barbara McGrew: Need to look at the plans. It is now up to 15 stories and 180 feet.

V. Adjourn

The Commission unanimously approved a motion by E Lee, seconded by L Buffinton, to adjourn the meeting at 9:09 pm.



Y Bradley, Chair

Signed: 08.15. 2016



E Tillotson, Recording Secretary